

<b>DATE OF DETERMINATION</b>	Friday, 29 October 2021
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Nicole Gurran, Noni Ruker, Glenn McCarthy and Ross Fowler
<b>APOLOGIES</b>	Stuart McDonald
<b>DECLARATIONS OF INTEREST</b>	Louise Camenzuli: One of my partners works for Perpetual Corporate Trust Limited.

Papers circulated electronically on 19 October 2021.

#### **MATTER DETERMINED**

PPSSWC-129 – Penrith – DA20/0810 at 34-36 Somerset Street and 2 Hargrave Street, Kingswood NSW 2747 – Integrated Development including Health Services Facility (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

##### **Determination**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The panel determined to approve the development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979.

The decision was unanimous.

##### **Application to vary a development standard**

A non-compliance arises in relation to cl. 4.3 of Penrith LEP 2010, which stipulates that the maximum height of any building permitted on the subject site is 21.6 m. The proposal has a maximum building height 25.26m relative to natural ground level to the top of the lift overruns. This results in a height non-compliance of 3.66m. That exceedance is 16.9% over the height control.

The panel has considered the written request made by the applicant and is satisfied that it demonstrates for the purposes of clause 4.6(3) that:

- a) compliance with the height development standard would be unreasonable and unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

Specifically, having regard to the assessment of the relevant matters discussed in the assessment report, the panel is satisfied that the development is in the public interest. It is consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in the B4 Mixed Use zone given that it will add a health services facility including 90 mental health beds to this accessible and expanding medical precinct adjacent to Nepean Public Hospital.

The concurrence of the Secretary is assumed.

##### **Reasons for the decision**

1. The proposed development will provide additional health services and facilities, and importantly 90 new mental health beds to the Sydney Western District and the City of Penrith within the Penrith

Health and Education Precinct. This will add to the now established public and private facilities and services within the precinct. In that way it will assist in delivery of the objective of the government Taskforce of establishing the Penrith Health and Education Precinct started in 2011 as *'one of Australia's premier destinations for health, education, medical research and related industry'*.

2. The proposal adequately satisfies the relevant objectives and provisions of Penrith LEP 2010. While the proposed development is not a permitted use within the applicable B4 Mixed Use zoning under Penrith LEP 2010, a health service facility is permitted by virtue of Cl. 57 of SEPP (Infrastructure) 2007 which overrides the relevant provisions of Penrith LEP 2010.
3. The design of the building has been substantially improved markedly during the assessment process, incorporating feedback from Council's Urban Design Review Panel and this panel. The building now integrates well with its locality and responds to the design features and "architectural language" of the adjoining recently completed Somerset Specialist Centre. The side eastern setback has been increased to comply with the DCP requirement of 6m at upper levels and parking provision has been improved.
4. Overall, the development is consistent with the objectives and controls of Penrith Development Control Plan 2014. In particular, the inclusion of a pharmacy at ground level open to the public will contribute to Somerset Street developing as an 'active frontage' street.
5. Other statutory instruments SEPP 55 (Remediation of Land) has been addressed, noting that Council's Senior Environmental Officer has reviewed the contamination report, Remediation Action Plan and Asbestos Management Plan submitted with the DA. Council staff are satisfied that the method of remediation, which will be to remove the asbestos from the site, is acceptable.
6. Water NSW have provided their General Terms of Approval in relation to the dewatering that will be required as a result of the basement excavation encountering groundwater.
7. The proposal adequately satisfies the relevant objectives and provisions of Penrith Development Control Plan 2014. Subject to the conditions imposed, it will not unacceptably impact on the natural or built environments including nearby premises and will not unduly impact the operation of the local road system.
8. While the proposal will not strictly meet the DCP requirements for parking provision, the TfNSW Guidelines for facilities of this kind will be met. Council's traffic engineer has accepted that the local traffic system can accommodate the extra vehicle movements expected. Arrangements for a private contractor to be utilised for garbage collection are satisfactory to the Council. Issues raised by Council's Access Committee have been resolved.
9. Council staff report that the issue of potential helicopter access to the helipad located on the Nepean Hospital car park during the construction phase of this development will be managed by a condition similar to that found to be acceptable by the Hospital for the adjoining property.
10. In consideration of conclusions 1-10 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

## **CONDITIONS**






The development application was approved subject to the conditions in the council assessment report.

## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered the written submission from the Nepean Blue Mountains Local Health District made during public exhibition, which raised issues of:

- Traffic around Nepean Hospital
- Construction cranes and future use of Nepean Hospital helipad

Those issues have been adequately addressed in the assessment report with detailed assessment of the Applicant’s traffic study and the condition regulating potential conflict between cranes and the adjacent helipad discussed above.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Noni Ruker	 Glenn McCarthy
 Ross Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-129 – Penrith City Council – DA20/0810
2	PROPOSED DEVELOPMENT	Integrated Development - Construction of a Five Storey Health Services Facility Containing a 90 Bed Mental Health Private Hospital, Pharmacy, GP Clinic and Private Consulting Rooms, with Parking for 99 Vehicles in Two Levels of Basement and One Lower Ground Floor Level, and a Roof-Top Terrace for Patient Use
3	STREET ADDRESS	34-36 Somerset Street and 2 Hargrave Street, Kingswood NSW 2747
4	APPLICANT/OWNER	Applicant: Barwon Investment Partners Pty Ltd Owner: Perpetual Corporate Trust Limited
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979</li> <li>Environmental Planning and Assessment Regulation 2000</li> <li>Biodiversity Conservation Act 2016</li> <li>Water Management Act 2000</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Vegetation in non-rural areas) 2017</li> <li>State Environmental Planning Policy (Western Sydney Aerotropolis) 2020</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy No 64 – Advertising and Signage</li> <li>Sydney Regional Environmental Plan No.20 – Hawkesbury Nepean River</li> <li>Penrith Local Environmental Plan 2010</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Penrith Development Control Plan 2021</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 15 October 2021</li> <li>Penrith Local Environmental Plan 2010 (LEP)</li> </ul>

		<ul style="list-style-type: none"> <li>• Development standard for Maximum Building Height at Clause 4.3 of Penrith LEP</li> <li>• B4 Mixed Use zone</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: Monday, 15 March 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Stuart McDonald, Glenn McCarthy and Jeni Pollard</li> <li>○ <u>Council assessment staff</u>: Sandra Fagan and Gavin Cherry</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: Monday, 25 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Noni Ruker, Glenn McCarthy and Ross Fowler</li> <li>○ <u>Council assessment staff</u>: Sandra Fagan and Robert Craig</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report